Appl. No. 09/823,207
Amdt. dated May 27, 2005
Amendment submitted with RCE of May 27, 2005

**PATENT**

## REMARKS

This Amendment is filed on **May 27, 2005**, with a Request for Continued Examination for the above-referenced patent application. This Amendment is submitted with a one-month extension of time, because an Amendment in response to the final Office Action was filed within two months of the final Office Action.

Claims 1, 8, 13, 19 and 20 are amended. Claims 1, 3-9, 11-13, and 15-20 are pending after entry of the present Amendment.

**Rejections under 35 U.S.C. § 102(b):**

Claims 1-6 and 8-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Aho et al. (Hereinafter "Aho"), "Compilers: Principles, Techniques, and Tools." Applicants respectfully traverse.

Aho discloses a general method of building compilers. That is, Aho explains that a compiler is a program that reads a program written in one language, the source language, and translates it into an equivalent program in another language, the target language. *See page 1, second paragraph* As noted in the disclosure, references to "program", "abstract machine", "target program", and "target machine" are all in the singular. *See pages 12, 20, 463 of Aho.* The method, as disclosed in Aho, is for targeting one machine at a time. In contrast, embodiments of the present invention, as clarified by the amended independent claims, simultaneously optimize code for at least two target machines. In addition, Aho discloses generating intermediate code as a program for an abstract machine. The intermediate code of Aho is base on one target machine. In contrast, embodiments of the present invention provide a different rule of instruction scheduling that is a restrictive set of rule of instruction scheduling for at least two target machines. That is, the different rule of instruction

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scheduling for a hypothetical machine as claimed in the present invention is based on at least two target machines. For at least these differences, Aho fails to disclose each and every limitation of the claimed embodiments of the present invention.

However, if the Examiner disagrees with the analysis as discussed above, the Applicants respectfully request the Examiner to provide specify quotes from Aho that disclose the claimed limitations. Because the Applicants have carefully reviewed Aho, especially the pages and paragraphs cited by the Examiner, and the Applicants did not find any language in Aho that states or suggests the claimed limitations as discussed.

To further prosecute the present application toward allowance, the Applicants have amended the independent claims to more clearly distinguish the claimed embodiments from the cited reference. As presented by the amended claims, the claimed embodiments simultaneously optimize code for at least two target machines. As discussed above, Aho only describes a conventional method of compiling code that targets one machine at a time. Accordingly, if the Examiner disagrees with the Applicants that Aho fails to disclose the claimed embodiment as clarified by the amended claims, the Applicants respectfully request that the Examiner identify specifically the language in Aho that discloses the claimed limitations as recited by the amended claims.

Based on the differences as discussed, Aho fails to teach each and every limitation of amended independent claims 1, 8, 13, 19, and 20. Accordingly, Aho fails to anticipate independent claims 1, 8, 13, 19, and 20. Dependent claims 3-6, 9, 11-12, 15-18 drawing their respective dependencies from independent claims 1, 8, or 13 are similarly not anticipated by Aho for substantially the same reasons as discussed above and for the additional limitations that each dependent claims respectively recites.

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**Rejections under 35 U.S.C. § 103(a):**

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Aho in view of "UltraSPARC-III: Designing Third-Generation 64-Bit Performance" (Hereinafter "III"), and Sun Micro System press release of May 1998 (Hereinafter "II'). Applicants respectfully traverse.

Assuming, *in arguendo*, that there is a suggestion or motivation to combine the references, a proposition that the Applicants would disagree, the combination still fails to teach each and every limitation of dependent claim 7. To anticipate claim 7, the combination of Aho, III, and II must disclose each and every limitation of dependent claim 7 including the limitations recited in independent claim 1, since claim 7 draws its dependency from independent claim 1. As discussed in the above section, Aho fails to each and every limitation of independent claim 1, and neither III nor II remedies the deficiencies of Aho. Therefore the combination of Aho, III, and II still fails to disclose each and every limitation of claim 7.

Since the combination of Aho, III, and II fails to disclose each and every limitation of claim 7, the combination fails to render claim 7 obvious. Accordingly, dependent claim 7 is patentable.

Hence, after entry of the present Amendment, the application is now in a condition for allowance. A Notice of Allowance is therefore respectfully requested.

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If the Examiner has any questions concerning the present Amendment, the Examiner

is kindly requested to contact the undersigned at (408) 774-6911. If any other fees are due in

connection with filing this Amendment, the Commissioner is also authorized to charge

Deposit Account No. 50-0805 (Order No. SUNMP303). A duplicate copy of the transmittal

is enclosed for this purpose.

Respectfully submitted,
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